

RD AN No. 4120(1980-D)
November 9, 2005

TO: State Directors
Rural Development

ATTENTION: Rural Housing Program Directors,
Guaranteed Rural Housing Specialists,
Rural Development Managers, and
Community Development Managers

FROM: Russell T. Davis *(Signed by Russell T. Davis)*
Administrator
Rural Housing Service

SUBJECT: Single Family Guaranteed Rural Housing
Report of Real Estate Owned Sold and
Future Recovery of Sale Proceeds

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to clarify RD Instruction 1980-D requirements for reporting the sale of Real Estate Owned property (REO) and procedure for the future recovery of sale proceeds when REO held by the guaranteed lender sells at a higher price than the appraised value used to estimate a net recovery loss claim on unsold REO. Any reference to "Agency" can be interpreted to be the Centralized Servicing Center (CSC) or State USDA Rural Development staff.

EXPIRATION DATE:
November 30, 2006

FILING INSTRUCTIONS:
Preceding RD Instruction 1980-D

COMPARISON WITH PREVIOUS AN:

This AN updates and replaces RD AN 4058 (1980-D), dated March 14, 2005. This reissued AN clarifies the procedure lenders are to perform to report the sale of all REO when a loss is paid based upon an anticipated sales price. It establishes probable time frames lenders are expected to adhere to when reporting the sale of REO sales and receipt of any future recovery due and clarifies the projected follow-up by Agency personnel in obtaining data from the lender.

BACKGROUND:

To control the cost of REO property management and disposition and encourage its expeditious sale, the Rural Development establishes a settlement date for Guaranteed Rural Housing (GRH) loss claims. For REO sold within six months of the acquisition date (the date of foreclosure sale or deed-in-lieu recordation), the settlement date is the date of the REO sale. For REO unsold during that time period, the settlement date is six months from the acquisition date, unless a thirty-day extension is authorized by the Agency for a property under a sale contract. In any case, when the settlement date is reached, allowable interest accrual ceases and the loss claim must be filed within thirty days.

The basic loss claim calculation is the total debt owed the lender less the security property sale proceeds. The total debt includes unpaid principal, authorized protective advances, interest accrued through the settlement date, foreclosure expenses, and REO management and resale expenses. In order to have a loss claim based on actual REO expenses and sale proceeds, REO must be sold within six months of the acquisition date. A loss claim on unsold REO is based on estimated net sale proceeds, using an estimated sale price and estimated REO expenses.

For a claim calculation on unsold REO, the estimated sale price is based on a third-party liquidation value appraisal obtained by the Agency. A liquidation value is used because it takes into consideration the market pressures on a distressed property. This value is multiplied by a cost factor to estimate REO expenses. The cost factor, developed and updated periodically by the Veterans Administration (VA), is based on a three-year average of VA acquired property operating expenses, selling expenses, and administrative expenses. The factor also takes into consideration the cost of repairs to bring the property to minimum property standards. For example, a loss claim based on an estimated sale price of \$76,500, multiplied by the current factor of 11.87 percent, reimburses the lender \$9,080.55 for estimated REO property management and disposition expenses.

When a lender reports the sale of REO, the *Future Recovery Calculator* (Attachment 1) should be utilized. An exception would be lenders who have been e-authenticated to file their loss claims and future recovery via the internet. When the REO associated with a claim based on a liquidation value appraisal is ultimately sold, the actual contract sale price may be higher than the appraised value used for the claim. If so, the difference

(between the actual sale price and the liquidation appraised value) is considered future recovery and it is shared between the Agency and the lender at the same ratio as the estimated loss.

When the lender reports an actual sale price that results in future recovery, the lender may document and deduct certain REO costs that were not considered in the original claim. A HUD-1, Settlement Statement, normally provides the necessary documentation, but other similar documentation may be used. The combined deduction cannot exceed the difference between the liquidation appraised value (used for the original claim) and the amount for which it was sold (the actual contract sale price). The following items may be deducted from future recovery of sale proceeds:

- Costs of capital improvements that directly resulted in an increased sale price. These additional cost allowances are not for routine repairs made subsequent to the claim.
- Settlement or improvements that are already considered in the appraised value used for the claim.
- Additional real estate commission based on the difference between the actual contract sale price and the estimated sale price used for the claim.
- Additional seller concessions that directly resulted in an increased sale price. This additional allowance is only for seller concessions that are above what is typical and customary for the area and was offset by an increased sale price.

When made aware of the sale of REO, the Agency will prepare a future recovery worksheet (included in the Automated Guaranteed Rural Housing (GRH) Loss Claim package referenced below) and notify the lender of any future recovery due to Rural Development. When the lender reports the sale of REO and when the payment is received from the lender, the Agency will report the sale and/or future recovery and remit the payment according to the User's Guide for the Automated SF-GRH Loss Claim Process-Future Recovery Calculator that was previously distributed to all Rural Development State Offices. Copies are available from the Single Family Housing Guaranteed Loan Division.

IMPLEMENTATION RESPONSIBILITIES:

The following procedures supplement the regulation presently in place. Please review these policies and procedures with all staff members responsible for SF-GRH loss claim processing and assure that they are implemented uniformly within your jurisdiction.

1. When a claim based upon a liquidation value is paid, advise the lender, servicer, or payee, as appropriate, of the following: (a) the liquidation appraised value used to calculate the claim, (b) that the lender must report the sale of REO within thirty days of the settlement date, (c) that future recovery may be due if the actual sale price exceeds the liquidation appraised value, (d) when and how to report the sale of REO and future

recovery of sale proceeds, and (e) the consequences of failure to report future recoveries (additional monitoring and possible termination of lender eligibility).

2. Through the use of GLSFH18, “Future Recovery Report” and/or State tracking, flag claims that were paid based on estimated sale proceeds and contact the lender three months later to inquire about the REO status if the actual sale information has not been received. Request the lender to submit a HUD-1, Settlement Statement, or similar document as verification of the sale amount. Continual periodic follow-up at least every 90 days should persist until the sale information is received.

3. When a lender reports the REO as sold, the Agency will update tracking records in GLS, under the *Loss Claim Administration* menu, *Loss Claim Update*, *Add Recovery Calculator*. This process is **applicable to all claims** paid based upon a liquidation value appraisal, regardless if future recovery is due.

4. For Nationally-approved lenders, report non-compliance with requests for sale information or payment of future recovery to the National Office, SFH Guaranteed Loan Division.

5. For State-approved lenders, consider non-compliance with requests for sale information or payment of future recovery as grounds for a lender monitoring review under RD Instruction 1980-D, Section 1980.309(g)(3).

6. For lenders centralized with the CSC, CSC will monitor and follow-up on claims and possible future recovery.

7. Review compliance with future recovery provisions in conjunction with lender monitoring reviews under RD Instruction 1980-D, Section 1980.309(g). The National Office is responsible for Nationally-approved lender monitoring. State Offices are responsible for State-approved lender monitoring.

8. GRH Lender Monitoring Checklist - Servicing Requirements, Property Management and Sale - Future Recovery (Attachment 2) may be used to review compliance with reporting the sale of REO and future recovery provisions.

Questions on future recovery may be directed to Debbie Terrell at (918) 534-3254, or by email at debra.terrell@wdc.usda.gov or Susanne Wilson at (202) 720-9705, or by email at susanne.wilson@wdc.usda.gov of the SFH Guaranteed Loan Division.

Attachments

USDA RURAL DEVELOPMENT
SINGLE FAMILY HOUSING GUARANTEED RURAL HOUSING LOAN PROGRAM
FUTURE
RECOVERY CALCULATOR

BORROWER NAME: Doe, J.	
Borrower SSN: 123-45-6789	
LENDER LOAN NUMBER: 9876	
LENDER TAX ID NO. (9 digit number): 12-3456789	
LENDER NAME: Central S&L	
DATE OF ORIGINAL LOSS CLAIM (mm/dd/yyyy): 9/13/2005	
SEE THE "USER GUIDE" FOR COMPLETE INSTRUCTIONS ON USING THE "FUTURE RECOVERY CALCULATOR"	
All Fields Must be Completed	
TOTAL LOSS (Net Loss Amount from the GLS Payment Information Section of View/Update screen or the Advice of Payment/Notice of Termination)	\$21,238.13
TOTAL COMPUTED LOSS PAYABLE (Loss Amount Paid to Lender from Computed Loss Info Section/View/Update screen of GLS or the Advice of Payment/Notice of Termination)	\$21,238.13
ORIGINAL LOAN AMOUNT	\$85,000.00
LIQUIDATION APPRAISED VALUE	\$76,500.00
AMOUNT REO PROPERTY WAS SOLD TO THIRD PARTY (Contract Price from HUD-1)	\$79,000.00
DIFFERENCE BETWEEN LIQUIDATION APPRAISED VALUE AND AMOUNT SOLD TO 3rd PARTY (Automated)	\$2,500.00
<u>ENTER EITHER THE ACTUAL PERCENTAGE OR DOLLARS AMOUNT OF REO SALES COMMISSION BELOW</u>	
ACTUAL PERCENTAGE RATE OF COMMISSION FOR REO SALE (Enter the actual Commission percentage rate charged to sell the REO) OR	
ACTUAL DOLLAR AMOUNT OF COMMISSION FOR REO SALE (Enter the actual commission charged to sell the REO)	\$4,740.00
ALLOWANCE FOR ADDITIONAL COMMISSION (Commission capped at 6% of Difference between Appraised Value and Actual Sale Price) (Automated)	\$150.00
COST OF CAPITAL IMPROVEMENTS DIRECTLY RESULTING IN AN INCREASED SALES PRICE	
AMOUNT OF RD APPROVED SELLER CONCESSIONS BEYOND WHAT IS CUSTOMARY	
ADJUSTED SALES PRICE (Automated)	\$78,850.00
NET DIFFERENCE BETWEEN LIQUIDATION APPRAISED VALUE AND ADJUSTED SALES PRICE TO 3rd PARTY (Automated)	\$2,350.00
OTHER RECOVERY NOT IN ORIGINAL CLAIM (Judgment, Insurance claim, etc.)	
SUM OF PREVIOUSLY REPORTED RECOVERY (Not included in original Claim)	
SUM OF PREVIOUSLY REPORTED RECOVERY PAID TO RURAL DEVELOPMENT	
35% of ORIGINAL LOAN AMOUNT (Automated)	\$29,750.00
TOTAL AMOUNT OF LOSS > 35% OF LOAN (Automated)	\$0.00
TOTAL AMOUNT OF RECOVERY (Automated)	\$2,350.00
<u>ALLOCATION OF RECOVERY:</u>	
<u>Split between Rural Development and Lender</u>	
RHS's 85% OF AMOUNT OF RECOVERED LOSS > 35% OF LOAN (Automated)	\$0.00
LENDER'S 15% PORTION OF LOSS > 35% OF LOAN (Automated)	\$0.00
<u>SUMMARY OF TOTAL TO RURAL DEVELOPMENT:</u>	
RD's 100% of the Difference Between Total Recovery & Loss over 35% (Automated)	\$2,350.00
RD's 85% OF SPLIT (Automated)	\$0.00
(LESS) PREVIOUS RECOVERY PAYMENTS MADE TO RURAL DEVELOPMENT (Automated)	\$0.00
AMOUNT LENDER TO PAY RURAL DEVELOPMENT (Maximum capped at Total Loss) (Automated):	\$2,350.00

Guaranteed Rural Housing (GRH) Lender Monitoring Checklist Servicing Requirements

Borrower Name:		Lender Name:	
RHS Case No:		Lender Loan No:	
Reviewer:		Date:	

Property Management and Sale - Future Recovery

- A. Population - All SF-GRH loss claims paid on REO unsold at the time of the claim, since the last review.
- B. Sample - Select the greater of 5% or 10%.

Complete the checklist to assess whether the lender has met the minimum GRH servicing standards for future recovery of REO sale proceeds.

Future Recovery Lender Monitoring					
Question		Y	N	NA	Notes/Comments
1.	Did the lender report the REO sale and future recovery, if any, within thirty days of the settlement date?				
2.	When advised of future recovery due, did the lender promptly remit recovery within thirty days of notification?				